

JC979 U.S. PTO  
09/26/01

39-28-01

A

Practitioner's Docket No. : MPI1999-016CP1CN1(M)

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Box Patent Application  
Assistant Commissioner for Patents  
Washington, D.C. 20231

NEW APPLICATION TRANSMITTAL

JC821 U.S. PTO  
09/965313  
09/26/01

Transmitted herewith for filing is the patent application of  
Inventor(s): Martin R. Hodge

For (title): NOVEL IL-9/IL-2 RECEPTOR-LIKE MOLECULES AND USES THEREOF

1. Type of Application

This new application is for a(n)

- ☐ Original (nonprovisional)  
☐ Design  
☐ Plant  
☐ Divisional.  
☒ Continuation.  
☐ Continuation-in-part (C-I-P).

CERTIFICATION UNDER 37 C.F.R. SECTIONS 1.8(a) AND 1.10\*

(When using Express Mail, the Express Mail label number is mandatory;  
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

- ☒ deposited with the United States Postal Service in an envelope addressed to the Assistant Commissioner for Patents,  
Washington, D.C. 20231.

37 C.F.R. Section 1.8(a)

37 C.F.R. Section 1.10\*

- ☐ with sufficient postage as first class mail.

- ☒ as "Express Mail Post Office to Address"  
Mailing Label No. EL791759027US  
(mandatory)

Date: September 26, 2001

Signature

Kerri Pollard Schray

(type or print name of person certifying)

**\*WARNING:** Each paper or fee filed by "Express Mail" must have the number of the "Express Mail" mailing label placed thereon prior to mailing. 37 C.F.R. Section 1.10(b).  
"Since the filing of correspondence under [Section] 1.10 without the Express Mail mailing label thereon is an oversight that can be avoided by the exercise of reasonable care, requests for waiver of this requirement will not be granted on petition." Notice of Oct. 24, 1996, 60 Fed. Reg. 56,439, at 56,442.

## 2. Benefit of Prior U.S. Application(s) (35 U.S.C. Sections 119(e), 120, or 121)

**NOTE:** A nonprovisional application may claim an invention disclosed in one or more prior filed copending nonprovisional applications or copending international applications designating the United States of America. In order for a nonprovisional application to claim the benefit of a prior filed copending nonprovisional application or copending international application designating the United States of America, each prior application must name as an inventor at least one inventor named in the later filed nonprovisional application and disclose the named inventor's invention claimed in at least one claim of the later filed nonprovisional application in the manner provided by the first paragraph of 35 U.S.C. Section 112. Each prior application must also be:

(i) An international application entitled to a filing date in accordance with PCT Article 11 and designating the United States of America; or

(ii) Complete as set forth in Section 1.51(b); or

(iii) Entitled to a filing date as set forth in Section 1.53(b) or Section 1.53(d) and include the basic filing fee set forth in Section 1.16; or

(iv) Entitled to a filing date as set forth in Section 1.53(b) and have paid therein the processing and retention fee set forth in Section 1.21(l) within the time period set forth in Section 1.53(f).

37 C.F.R. Section 1.78(a)(1).

[ X ] The new application being transmitted claims the benefit of prior U.S. application(s).  
09/574,100 filed May 18, 2000.

## 3. Relate Back 35 U.S.C. Sections 120, 121 and 365(c)

**NOTE:** "Except for a continued prosecution application filed under Section 1.53(d), any nonprovisional application claiming the benefit of one or more prior filed copending nonprovisional applications or international applications designating the United States of America must contain or be amended to contain in the first sentence of the specification following the title a reference to each such prior application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date and indicating the relationship of the applications. . . . Cross-references to other related applications may be made when appropriate." (See Section 1.14(a)). 37 C.F.R. Section 1.78(a)(2).

[X] Amend the specification by inserting, before the first line, the following sentence:

"This application is a continuation of copending application number 09/574,100 filed on May 18, 2000."

[ X ] "The nonprovisional application designated above, namely application 09 /574,100, filed May 18, 2000, is a continuation-in-part application of copending U.S. Patent Application No.: 09/313,913 filed May 18, 1999.

[ X ] Where more than one reference is made above please combine all references into one sentence.

## 4. Maintenance of Copendency of Prior Application

**NOTE:** The PTO finds it useful if a copy of the petition filed in the prior application extending the term for response is filed with the papers constituting the filing of the continuation application. Notice of November 5, 1985 (1060 O.G. 27).

A. [ X ] Extension of time in prior application

(This item **must** be completed and the papers filed **in the prior application**, if the period set in the prior application has run.)

☒ A petition, fee and response extends the term in the pending **prior** application until September 26, 2001.

☒ A **copy** of the petition filed in prior application is attached (7 pages).

**B. ☐ Conditional Petition for Extension of Time in Prior Application**

*(complete this item, if previous item not applicable)*

☐ A conditional petition for extension of time is being filed in the pending **prior** application.

☐ A **copy** of the conditional petition filed in the prior application is attached.

**5. Abandonment of Prior Application (if applicable)**

☒ Please abandon the prior application at a time while the prior application is pending, or when the petition for extension of time or to revive in that application is granted, and when this application is granted a filing date, so as to make this application copending with said prior application.

*NOTE: According to the Notice of May 13, 1983 (103, TMOG 6-7), the filing of a continuation or continuation-in-part application is a proper response with respect to a petition for extension of time or a petition to revive and should include the express abandonment of the prior application conditioned upon the granting of the petition and the granting of a filing date to the continuing application.*

**6. NOTIFICATION IN PARENT APPLICATION OF THIS FILING**

A notification of the filing of this continuation is being filed in the parent application, from which this application claims priority under 35 U.S.C. Section 120.

**7. Papers Enclosed**

**Required for Filing Date under 37 C.F.R. Section 1.53(b) (Regular) or 37 C.F.R. Section 1.153 (Design) Application**

93 Pages of Specification, including  
87 Pages of Description  
5 Pages of Claims  
1 Page of Abstract  
7 Sheets of Drawings

**WARNING:** *DO NOT* submit original drawings. A high quality copy of the drawings should be supplied when filing a

patent application. The drawings that are submitted to the Office must be on strong, white, smooth, and non-shiny paper and meet the standards according to Section 1.84. If corrections to the drawings are necessary, they should be made to the original drawing and a high-quality copy of the corrected original drawing then submitted to the Office. Only one copy is required or desired. For comments on proposed then-new 37 C.F.R. 1.84, see Notice of March 9, 1988 . (1990 O.G. 57-62).

NOTE: "Identifying indicia, if provided, should include the application number or the title of the invention, inventor's name, docket number (if any), and the name and telephone number of a person to call if the Office is unable to match the drawings to the proper application. This information should be placed on the back of each sheet of drawing a minimum distance of 1.5 cm. (5/8 inch) down from the top of the page. . ." 37 C.F.R. Section 1.84(c)).

(complete the following, if applicable)

☐ The enclosed drawing(s) are photograph(s), and there is also attached a "PETITION TO ACCEPT PHOTOGRAPH(S) AS DRAWING(S)." 37 C.F.R. Section 1.84(b).

☐ Formal  
☒ Informal

#### 4. Additional Papers Enclosed

- ☐ Information Disclosure Statement (37 C.F.R. Section 1.98)
- ☐ Form PTO-1449 (PTO/SB/08A and 08B)
- ☐ Citations
- ☐ Declaration of Biological Deposit
- ☒ Submission of "Sequence Listing," computer readable copy and/or amendment pertaining thereto for biotechnology invention containing nucleotide and/or amino acid sequence. (14 pages of sequence listing, 1 page of transmittal)
- ☐ Authorization of Attorney(s) to Accept and Follow Instructions from Representative
- ☐ Special Comments
- ☐ Other:

#### 5. Declaration or Oath (including power of attorney)

NOTE: A newly executed declaration is not required in a continuation or divisional application provided the prior nonprovisional application contained a declaration as required, the application being filed is by all or fewer than all the inventors named in the prior application, there is no new matter in the application being filed, and a copy of the executed declaration filed in the prior application (showing the signature or an indication thereon that it was signed) is submitted. The copy must be accompanied by a statement requesting deletion of the names of person(s) who are not inventors of the application being filed. If the declaration in the prior application was filed under Section 1.47 then a copy of that declaration must be filed accompanied by a copy of the decision granting Section 1.47 status or, if a nonsigning person under Section 1.47 has subsequently joined in a prior application, then a copy of the subsequently executed declaration must be filed. See 37 C.F.R. Section 1.63(d)(1)-(3).

NOTE: A declaration filed to complete an application must be executed, identify the specification to which it is directed, identify each inventor by full name, including the family name, and at least one given name without abbreviation together with any other given name or initial, and the residence, post office address and country of citizenship of each inventor, and state whether the inventor is a sole or joint inventor. 37 C.F.R. Section 1.63(a)(1)-(4).

NOTE: A The inventorship of a nonprovisional application is that inventorship set forth in the oath or declaration as prescribed by Section 1.62, except as provided for in Section 1.53(d)(4) and Section 1.63(d). If an oath or declaration as prescribed by Section 1.63 is not filed during the pendency of a nonprovisional application, the inventorship is that inventorship set

forth in the application papers filed pursuant to Section 1.53(b), unless a petition under this paragraph accompanied by the fee set forth in Section 1.17(l) is filed supplying or changing the name or names of the inventor or inventors. 37 C.F.R. Section 1.41(a)(1).

☒ Enclosed

(3 pages) Declaration and Power of Attorney executed by Martin R. Hodge, inventor.

(2 pages) Revocation of Prior Powers of Attorney and Appointment of New Power of Attorney executed by Scott A. Brown, Associate General Counsel and Chief Patent Counsel, Millennium Pharmaceuticals, Inc.

(2 pages) USPTO Notice Regarding Power of Attorney (acceptance of New Power of Attorney).

☐ Not Enclosed.

## 6. Inventorship Statement

**WARNING:** *If the named inventors are each not the inventors of all the claims an explanation, including the ownership of the various claims at the time the last claimed invention was made, should be submitted.*

The inventorship for all the claims in this application are:

☒ The same. **or**

☐ Not the same. An explanation, including the ownership of the various claims at the time the last claimed invention was made,

☐ is submitted.

☐ will be submitted.

## 7. Language

**NOTE:** *An application including a signed oath or declaration may be filed in a language other than English. An English translation of the non-English language application and the processing fee of \$130.00 required by 37 C.F.R. Section 1.17(k) is required to be filed with the application, or within such time as may be set by the Office. 37 C.F.R. Section 1.52(d).*

☒ English

☐ Non-English

☐ The attached translation includes a statement that the translation is accurate. 37 C.F.R. Section 1.52(d).

## 8. Assignment

☒ An assignment of the invention to Millennium Pharmaceuticals, Inc. was filed in parent application 09/574,100 recorded October 23, 2000 at Reel/Frame 011214/0422 a copy of

which

☒ is attached (4 pages).  
☐ will follow.

**NOTE:** "If an assignment is submitted with a new application, send two separate letters-one for the application and one for the assignment" Notice of May 4, 1990 (1114 O.G. 77-78).

**WARNING:** A newly executed "STATEMENT UNDER 37 C.F.R. Section 3.73(b)" must be filed when a continuation-in-part application is filed by an assignee. Notice of April 30, 1993, 1150 O.G. 62-64.

**9. Fee Calculation (37 C.F.R. Section 1.16)**

**A.** ☒ Regular application

CLAIMS AS FILED					
Claims	Number Filed	Basic Fee Allowance	Number Extra	Rate	Basic Fee 37 C.F.R. Section 1.16(a) \$710.00
Total Claims (37 C.F.R. Section 1.16(c))	23	- 20 =	3 x	\$18.00	54.00
Independent Claims (37 C.F.R. Section 1.16(b))	2	- 3 =	x	\$80.00	0.00
Multiple Dependent Claim(s), if any (37 C.F.R. Section 1.16(d))	0	+		\$270.00	

- ☐ Amendment cancelling extra claims is enclosed.  
☐ Amendment deleting multiple-dependencies is enclosed.  
☐ Fee for extra claims is not being paid at this time.

**NOTE:** If the fees for extra claims are not paid on filing they must be paid or the claims cancelled by amendment, prior to the expiration of the time period set for response by the Patent and Trademark Office in any notice of fee deficiency. 37 C.F.R. Section 1.16(d).

Filing Fee Calculation \$764.00

## 10. Method of Payment of Fees

- ☐ Check in the amount of \$\_\_\_\_\_.
- ☒ Charge Account No. 501668 in the amount of \$ 764.00 .  
A duplicate of this transmittal is attached.

*NOTE: Fees should be itemized in such a manner that it is clear for which purpose the fees are paid. 37 C.F.R. Section 1.22(b).*

## 11. Authorization to Charge Additional Fees

**WARNING:** *If no fees are to be paid on filing, the following items should not be completed.*

**WARNING:** *Accurately count claims, especially multiple dependent claims, to avoid unexpected high charges, if extra claim charges are authorized.*

- ☒ The Commissioner is hereby authorized to charge the following additional fees by this paper and during the entire pendency of this application to Account No. 501668.
- ☒ 37 C.F.R. Section 1.16(a), (f) or (g) (filing fees)
- ☒ 37 C.F.R. Section 1.16(b), (c) and (d) (presentation of extra claims)

*NOTE: Because additional fees for excess or multiple dependent claims not paid on filing or on later presentation must only be paid or these claims cancelled by amendment prior to the expiration of the time period set for response by the PTO in any notice of fee deficiency (37 C.F.R. Section 1.16(d)), it might be best not to authorize the PTO to charge additional claim fees, except possibly when dealing with amendments after final action.*

- ☒ 37 C.F.R. Section 1.16(e) (surcharge for filing the basic filing fee and/or declaration on a date later than the filing date of the application)
- ☒ 37 C.F.R. Section 1.17(a)(1)-(5) (extension fees pursuant to Section 1.136(a).
- ☒ 37 C.F.R. Section 1.17 (application processing fees)

*NOTE: "A written request may be submitted in an application that is an authorization to treat any concurrent or future reply, requiring a petition for an extension of time under this paragraph for its timely submission, as incorporating a petition for extension of time for the appropriate length of time. An authorization to charge all required fees, fees under Section 1.17, or all required extension of time fees will be treated as a constructive petition for an extension of time in any concurrent or future reply requiring a petition for an extension of time under this paragraph for its timely submission. Submission of the fee set forth in Section 1.17(a) will also be treated as a constructive petition for an extension of time in any concurrent reply requiring a petition for an extension of time under this paragraph for its timely submission." 37 C.F.R. Section 1.136(a)(3).*

- ☐ 37 C.F.R. Section 1.18 (issue fee at or before mailing of Notice of Allowance, pursuant to 37 C.F.R. Section 1.311(b))

*NOTE: Where an authorization to charge the issue fee to a deposit account has been filed before the mailing of a Notice of Allowance, the issue fee will be automatically charged to the deposit account at the time of mailing the notice of allowance. 37 C.F.R. Section 1.311(b)).*

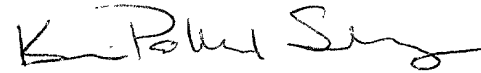
NOTE: 37 C.F.R. Section 1.28(b) requires "Notification of any change in status resulting in loss of entitlement to small entity status must be filed in the application . . . prior to paying, or at the time of paying, . . . issue fee." From the wording of 37 C.F.R. Section 1.28(b), (a) notification of change of status must be made even if the fee is paid as "other than a small entity" and (b) no notification is required if the change is to another small entity.

### 13. Instructions as to Overpayment

NOTE: ". . . Amounts of twenty-five dollars or less will not be returned unless specifically requested within a reasonable time, nor will the payer be notified of such amounts; amounts over twenty-five dollars may be returned by check or, if requested, by credit to a deposit account." 37 C.F.R. Section 1.26(a).

☒ Credit Account No. 501668.

☐ Refund



**SIGNATURE OF PRACTITIONER**

Reg. No. 47,066

Kerri Pollard Schray

(type or print name of practitioner)

Tel. No.: (617) 551-3676

Millennium Pharmaceuticals, Inc.

P.O. Address

Customer No.:

75 Sidney Street

Cambridge, MA 02139

☒ **Statement Where No Further Pages Added**

(if no further pages form a part of this Transmittal, then end this Transmittal with this page and check the following item)

☒ This transmittal ends with this page.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of: Martin R. Hodge

Serial No.: N/A

Filed: Herewith

For: NOVEL IL-9/IL-2 RECEPTOR-LIKE  
MOLECULES AND USES THEREOF

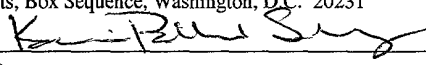
Attorney Docket No.: MPI1999-016CP1CN1(M)

Assistant Commissioner for Patents  
Box Sequence  
Washington, D.C. 20231

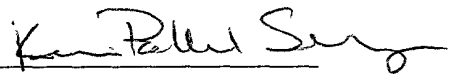
**TRANSMITTAL LETTER FOR DISKETTE CONTAINING SEQUENCE LISTING**

Dear Sir:

Enclosed is a diskette which contains a computer readable form of the Sequence Listing for the patent application filed herewith. The Sequence Listing complies with the requirements of 37 C.F.R. § 1.821. The material on this diskette is identical in substance to the Sequence Listing which is submitted herewith, as required by 37 C.F.R. § 1.821(f). The computer readable form of the sequence listing contained on the enclosed diskette is understood to comply with the requirements of § 1.824(d).

Express Mail" mailing label number EL791759027US  
Date of Deposit September 26, 2001  
I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Assistant Commissioner for Patents, Box Sequence, Washington, D.C. 20231  
  
Signature Kerri Pollard Schray  
Please Print Name of Person Signing

MILLENNIUM PHARMACEUTICALS, INC.

By   
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Attorney for Applicant  
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